



STATE OF MAINE  
COMMISSION ON GOVERNMENTAL ETHICS  
AND ELECTION PRACTICES  
135 STATE HOUSE STATION  
AUGUSTA, MAINE  
04333-0135

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**February 10<sup>th</sup>, 1999**

Minutes of the February 10<sup>th</sup>, 1999, meeting of the Commission on Governmental Ethics and Election Practices held in the First Floor Meeting Room, PUC Building, 242 State Street, Augusta, Maine.

Present: Chairman Peter B. Webster; Members Linda W. Cronkhite, Harriet P. Henry (telephonically), G. Calvin Mackenzie, and Merle R. Nelson; Director William C. Hain, III; Counsel Phyllis Gardiner; and Commission Assistant Diana True.

Chairman Webster called the meeting to order at 9:05 a.m.

In consideration of the Commission's practice of addressing agenda items out of order to accommodate the attendance of public participants regarding particular items, the Commission considered the published agenda as follows:

**Agenda Item #6B: Maine People's Alliance (MPA) Late Annual Lobbyist Disclosure Report**

Lobbyist Kathleen McGee and MPA Executive Director Mr. John Dieffenbacher-Krall appeared to address the reasons for the late filing of MPA's annual lobbyist registration report. Both reiterated the contents of their respective letters to the Commission on the subject, Mr. Dieffenbacher-Krall acknowledging responsibility as Executive Director for filing the annual report. After discussion of the facts and review of the statutory authority, particularly the burden being on the employer to file the report, Mr. Mackenzie moved, Mrs. Nelson seconded, and the Commission voted unanimously to assess a civil penalty of \$100 to be assessed fully against the employer, Maine People's Alliance, for failure to file the annual report on time.

**Agenda Item #5A: Women Vote '98 Political Action Committee (PAC)**

Elizabeth Saltonstall, PAC Treasurer, appeared to address the reasons for the 3-day late filing of the PAC's 42-day post-election campaign finance report. After brief consideration of the facts presented by Ms. Saltonstall, Mr. Mackenzie moved, Mrs. Cronkhite seconded, and the Commission voted unanimously to adopt the staff recommendation and assess a civil penalty of \$310.35, a 50% mitigation based on no previous violations this period.

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WEBSITE: [WWW.MAINE.GOV/ETHICS](http://WWW.MAINE.GOV/ETHICS)



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**Agenda Item #1: Minutes**

Mr. Mackenzie moved, Mrs. Cronkhite seconded, and it was unanimously voted to accept the minutes as prepared for the January 13<sup>th</sup>, 1999 meeting.

**Agenda Item #2A: City of South Portland v. Management Research & Development Association (MRDA)(Paul A. Volle, President)**

Mr. Hain reported that Mr. Volle had filed the required registration of the MRDA PAC as directed by the Commission and had paid the assessed \$250.00 civil penalty for the failure to register previously. Mr. Volle requested and was granted an administrative extension of time to file the required campaign finance reports, which he did on time. No further action was required.

**Agenda Item #3: Guidelines on Acceptance of Gifts**

Newly published guidelines were presented to Members for information. Mr. Hain reported that he already has had occasion to include the new guidelines in response to an inquiry from Representative Stavros J. Mendros received on January 28<sup>th</sup>, 1999, and requiring a response by February 5<sup>th</sup>, 1999.

**Agenda Item #4A: Neal Pratt, Late Campaign Finance Report**

Mrs. Nelson excused herself from consideration of this matter. Jaime P. Schwartz, Esq., Treasurer of Pratt for D.A. campaign, wrote to the Commission explaining the lateness of the campaign's 42-day post-election report. After consideration of the contents of that correspondence, Mr. Mackenzie moved, Mrs. Cronkhite seconded, and the Commission approved unanimously the assessment of a \$189.47 penalty based on no previous violations this period.

**Agenda Item #6A: International Paper Late Annual Lobbyist Disclosure Report**

Chairman Webster excused himself from consideration of this matter based on representational relationship issues. Mr. Mackenzie assumed the Chair. Mr. Stephen C. Clarkin, Regional Manager, Public Affairs, lobbyist for International Paper, wrote to the Commission explaining the lateness of the annual report. The Commission having considered the contents of that correspondence, Mrs. Cronkhite moved, Mrs. Nelson seconded, and the Commission approved unanimously the assessment of the staff recommendation of a \$100.00 penalty based on no previous violations this period. Chairman Webster resumed the Chair.

**Agenda Item #6C: Maine Petroleum Association**

Patricia W. Aho, Executive Director, Maine Petroleum Association, wrote to the Commission explaining the lateness of the Association's December 1998 monthly lobbyist disclosure report. The Commission having considered the contents of that correspondence, Mr. Mackenzie moved,



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Mrs. Nelson seconded, and the Commission voted unanimously to assess a \$50.00 penalty based on no previous violations this period.

**Agenda Item #7B: Complaint By Representative Linda Rogers McKee**

Representative McKee appeared personally to address her complaint against Mr. Paul Rheaume, her opponent in the Fall 1998 campaign, for allegedly violating the pledge Mr. Rheaume had signed to abide by the provisions of the Maine Code of Fair Campaign Practices. Representative McKee reiterated and elaborated on the contents of her previous correspondence to the Commission, repeating her question regarding the significance of the fair campaign practices pledge and the issue of accountability and how that may be achieved.

Mrs. Nelson questioned the role of the Commission and the statutory authority to take any action and the role of the political parties regarding the Code and candidate pledges. Noting that, while Representative McKee won her election in the face of the problems she has identified, that is not always the case when candidates do not necessarily have sufficient time remaining in a campaign to refute erroneous or misleading information that may be published about them. She suggested that Representative McKee may want to consider introducing legislation that would provide a penalty for violation of the Code. Representative McKee noted that in her case, the newspaper did publish an editorial that addressed the problem, but the general response from the media was a lack of cooperation in getting the viewpoints of both candidates published.

Mr. Mackenzie counseled caution, raising the specter of the effect of governmental agencies, such as the Commission, telling people what they can say. He noted and agreed with Representative McKee's concern for the impact of the type of situation presented here on Clean Election Act candidates, particularly during the time immediately before the election. He suggested, however, that the "marketplace" exists to set the record straight, and that the competing interests of fairness and Constitutionally protected speech are best handled in the context of the competition between ideas in that marketplace, with the ultimate arbiter of those ideas being the voters.

Mrs. Nelson suggested that it is the role of the Legislature to give the Commission authority and to direct how it is to handle situations such as this, and that authority and direction presently are lacking. Representative McKee noted that she would like to see the Commission be able to deal with the more flagrant, obvious situations.

Mrs. Cronkhite asked Representative McKee if she knew how the editorial had resulted, to which Representative McKee responded that a sympathetic constituent had researched the record and met with the editor. Mrs. Cronkhite observed that the editorial appeared to be the most powerful means of countering the misinformation that had been published, supporting Mr. Mackenzie's remarks about the role of the marketplace of competing ideas. Mrs. Nelson again noted the limited power of the Commission and the power of the Legislature to address the problem in the manner it thought best.



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Chairman Webster concluded the discussion noting that his assumption that, since the Commission lacks jurisdiction, it is unable to address the matter, regretfully.

Mrs. Nelson inquired regarding the provisions of the Maine Clean Election Act and the timing of the release of funds and how that might be impacted by this type of situation, to which Mr. Hain explained the matching fund and the accelerated reporting provisions of the Act and the Regulations.

**Agenda Item #7A: Mr. Donald L. Jones Complaint**

Mr. Jones' complaint regarding the violation of the attribution provisions on express advocacy communications by Dr. Peter McNelis, Representative Benjamin L. Rines, Jr., and Commissioner William B. Blodgett was reviewed, together with the written communications from each of the respondents explaining their positions with respect to the alleged violations. After review and discussion Mr. Mackenzie moved, Mrs. Nelson seconded, and the Commission voted unanimously to assess a \$25.00 civil penalty in each of the three cases, acknowledging the technical, albeit relatively minor degree of each violation and the probability of minimal impact of those violations.

**Agenda Item #8: Legislation Briefing**

Mr. Hain briefed Members regarding bills introduced in the First Regular Session of the 119th Maine Legislature about which fiscal impact statements have been prepared or about which the Commission has been invited to testify before any legislative committees.

**Agenda Item #9A: Mr. Mackenzie Resignation**

Chairman Webster noted with disappointment Mr. Mackenzie's letter to Governor King regarding his future departure and expressed the Commission's sincere appreciation for the considerable service Mr. Mackenzie has provided to the Commission over the last several years.

**Electronic Filing Project Request for Proposals:** Mr. Hain informed Members of the status of the electronic filing project RFP, the general time schedule that he expects to follow, and requested Commission representation by Mr. Mackenzie on the Review Committee that will be assembled to select the successful bidder and Developer of the new system. Counsel Gardiner suggested that it might be better if she did not participate as a member of that Review Committee in the event of possible challenge of the process by an unsuccessful bidder. Chairman Webster asked for and received unanimous consent of the Commission for Mr. Mackenzie to represent the Commission as a member of the Review Committee.

**Agenda Item #10: Pending Lawsuits**

At 10:43 a.m. Mr. Mackenzie moved, Mrs. Cronkhite seconded and Members voted unanimously to go into executive session to hear a report by Counsel Gardiner regarding the status of the two lawsuits pending against the Commission challenging the lobbyist registration



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fees and implementation of the Maine Clean Election Act. Upon conclusion of that briefing at 11:05 a.m., Mr. Mackenzie moved, Mrs. Cronkhite seconded and Members voted unanimously to go out of executive session. The Commission took no action in executive session that required subsequent ratification.

On motion and unanimous agreement, the Commission adjourned at 11:06 a.m.

Respectfully submitted,

William C. Hain, III  
Executive Director